

REMARKS

Claims 1, 5, 6 and 7 are amended and new claims 44-49 are added. By this Amendment, claims 1-49 are pending in this application.

Claims 1-43 were previously the subject of a Restriction requirement dated September 5, 2003. In the Response to the Restriction requirement filed on October 3, 2002, Applicant provisionally elected Species A with traverse and identified claims 1-16 and 25-35 as being directed to the elected Species. However, in the Office Action dated December 17, 2003, claims 25-35 were included with claims directed to non-elected species and were withdrawn from consideration. Applicant respectfully traverses the withdrawal of claims 25-35 from consideration, as those claims are not directed to species B or C (identified in the Restriction Requirement of September 5, 2003) and, instead, are directed to the invention of elected species A. Accordingly, consideration and examination of claims 25-35 is requested.

Claims 1-4, 9 and 16 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Duffin et al. (USP 5,752,976) in view of Pollack (USP 4,854,328). Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duffin et al. in view of Pollack and further in view of Schulman et al. (USP 6,208,894). Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duffin et al. in view of Pollack and further in view of Fletcher (USP 3,910,257). Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duffin et al. in view of Pollack and further in view of Mann et al. (USP 6,554,798). Each of these rejections is respectfully traversed, in view of the claims as amended herein.

As amended, claim 1 recites that “a portion of the messages sent between the communication device and the medical device are directed to specific medical device, or a specific communication device, by inclusion of an MD identifier that identifies the medical device or a CD identifier that identifies the communication device,” while “a further portion of the messages sent between the communication device and the medical device are universal messages, by inclusion of a universal identifier.” None of the cited prior art references discloses or suggests a medical system in which specific MD or CD identifiers are included in some messages, while a universal identifier is included in further messages.

Instead, as acknowledged by the Examiner, Duffin fails to show an identifier associated with a message. While the Examiner cited Pollack as disclosing an animal monitoring system which employs an identifier, Pollack neither discloses nor suggests a universal identifier (or sending a portion of messages with an MD or CD identifier, while sending a further portion of messages with a universal identifier). Accordingly, it is submitted that the claim 1, as amended, is patentably distinguished over Duffin and Pollack, individually or in the combination suggested by the Examiner.

Claims 2-4 and 9-16 are each dependent, directly or indirectly, on claim 1. Accordingly, at least for reasons as discussed above with respect to claim 1, it is respectfully submitted that dependent claims 2-4 and 9-16 are patentably distinguished over the prior art of record. The cited patents to Schulman et al., Fletcher and Mann et al. do not address the universal identifier aspect of claim 1 and, thus, when combined with Duffin and Pollack (as suggested by the Examiner), those patents do not result in or suggest the claimed invention. Therefore, the rejection of claim 1 and dependent claims 2-4 and 9-16 is respectfully traversed.

Claims 5-8 have been objected to as being dependent upon a rejected base claim. Applicant notes with appreciation the Examiner's statement that those claims would be allowable, if re-written in independent form, including all of the limitations of the base claim and any intervening claims. In response, claims 5, 6 and 7 are each amended herein to be in independent form, as suggested by the Examiner, to place them in condition for allowance. Claim 8 is dependent on claim 7 and remains in its dependent form. Accordingly, it is respectfully submitted that claims 5-8 are in condition for allowance.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to

Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date: March 17, 2004
FOLEY & LARDNER LLP
Customer Number: 23392
Telephone: (310) 975-7963
Facsimile: (310) 557-8475

By: 

Ted R. Rittmaster
Attorney for Applicant
Registration No. 32,933